



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

07 APR 2017

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Article No.: 7014 1200 0000 6127 5062

Mr. Kevin Betzen  
Utilities Superintendent  
City of David City  
557 N. 4<sup>th</sup> Street  
David City, Nebraska 68632

Dear Mr. Betzen:

On October 31 – November 3, 2016, a representative of the U.S. Environmental Protection Agency performed an inspection of the City of David City's waste water treatment plant to assess compliance with its National Pollutant Discharge Elimination System Permit No. NE0021199. The inspection was conducted under the authority of Section 308 of the Clean Water Act, 33 U.S.C. § 1318. A copy of the inspection report was sent to you previously. The purpose of this letter is to obtain additional information so the EPA can determine the facility's compliance with the CWA.

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes the EPA to require the submission of any information necessary to carry out the objectives of the CWA, 33 U.S.C. § 1251 *et seq.* Under the authority of Section 308 of the CWA, the EPA hereby requests the City to provide the information requested in **ENCLOSURE 1 within thirty (30) days of receipt to the address identified therein.**

**Guidance on How to Respond**

Please read the instructions included in ENCLOSURE 1 carefully before preparing your responses to this Information Request. Every submitted response to this request must be accompanied by a certification that is signed and dated by an authorized representative of the facility, as identified by 40 C.F.R. § 122.22. The certification must state that the response is complete and contains all information and documentation available to you relevant to the request. A Statement of Certification is enclosed with this letter (ENCLOSURE 2).

**Important Information about This Request and the Response**

Please be advised that the failure to respond accurately and within the stated timeframes, or the submission of false information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Further note that the agency reserves the right to pursue appropriate enforcement actions under Section 309 of the CWA, 33 U.S.C. § 1319, including penalties, for violations of the CWA, including those discovered as a result of the agency's October 2016 inspection.

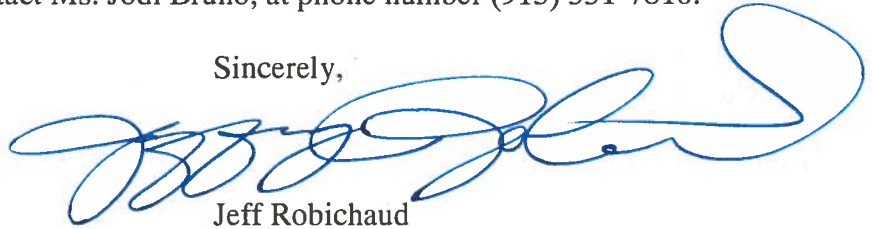


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The information required by this request must be submitted notwithstanding any claim you may have concerning confidentiality. The City may assert a business confidentiality claim with respect to part or all of the information submitted to the agency under the provisions of 33 U.S.C. § 1318, 18 U.S.C. § 1905, as further described in the enclosed instructions. The agency will consider and process such a request pursuant to such statutes and the agency regulations at 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to the agency, it may be made available to the public by the agency without further notice to the City. Please note that pursuant to 40 C.F.R. § 2.302, effluent data, as defined therein, is not eligible for confidential treatment.

We appreciate your cooperation and prompt attention to this matter. If you have any questions regarding this information request, please contact Ms. Jodi Bruno, at phone number (913) 551-7810.

Sincerely,



Jeff Robichaud  
Acting Director  
Water, Wetlands and Pesticides Division

Enclosures

cc: NDEQ, via electronic copy

## ENCLOSURE 1

### INFORMATION REQUEST

**Re: David City, NE**

This information is requested by the U.S. Environmental Protection Agency pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318.

#### 1. Instructions

1. Please provide a separate response to each and every request set forth below. Please label each response in a manner that identifies the number of the question or document request.
2. If any response cannot be provided in full, provide the response to the extent possible along with an explanation of why the response cannot be provided in its entirety.
3. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA within ten (10) business days of when the information or documents become known or available. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is inaccurate, false or misrepresents the truth, you must notify the EPA of this fact immediately and provide a corrected response within ten (10) business days of when you find the information is false or misrepresents the truth.
4. Certification. The Statement of Certification found in ENCLOSURE 2 must be submitted along with your responses every time a submission is made pursuant to this Information Request. This statement must be made by a person authorized to sign reports pursuant to 40 C.F.R. § 122.22(b). For your convenience, the text of 40 C.F.R. § 122.22(b) is included on ENCLOSURE 2.
5. Confidential Business Information. If you believe any of the requested information is confidential, you may assert a business confidentiality claim under the provisions of 33 U.S.C. § 1318, 18 U.S.C. § 1905, and the regulations at 40 C.F.R. Part 2, and in the manner described at 40 C.F.R. § 2.203(b). Information requested by this letter, however, must be submitted to the EPA regardless of such a claim of confidentiality. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.
6. Accurate and Truthful Information Required. Compliance with this information request is mandatory. Please be advised that the failure to respond accurately and within the stated timeframes, or the submission of false information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Please be aware that the issuance of this letter and your response with the requested information does not relieve you of any responsibility under the Act for seeking, maintaining, or complying with an applicable NPDES permit.

Submission of Response to Information Request. All responses to this Information Request must be submitted within the timeframes identified in Section II, below. Each response should be submitted in a manner that allows you to track delivery, and must be submitted to:

**Jodi Bruno  
U.S. Environmental Protection Agency  
Water, Wetlands and Pesticides Division  
11201 Renner Boulevard  
Lenexa, Kansas 66219.**

## **II. Requested Information**

Please submit your response to this Information Request within thirty (30) days of receipt.

Note that except for a cover letter or memorandum and the Statement of Certification, 1) only copies, and not original documents, should be submitted pursuant to this request, and 2) documents and data may be submitted on a compact disk in PDF, Word, Excel or other widely available electronic format.

## **III. Preliminary Information**

1. In each response required by this Information Request, identify the person to contact regarding your response, including title, address and phone number.
2. Your responses to this Information Request are to be provided by a qualified professional. For each response required below, provide the name and credentials of the person(s) providing information in response to this Information Request.

## **IV. Wastewater Treatment Plant and Collection System**

3. For the time period between October 1, 2016 and the present, provide a SIGNED copy of all Discharge Monitoring Reports (DMR) for the WWTP.
4. Provide any plans, reports, studies, consultant memorandums, or other documents describing the City's plans to address compliance with the WWTP's NPDES Permit.
5. For the time period between April 2012 and the present, provide all reports, memorandums, communications and correspondence, including but not limited to letters, emails, meeting notes, minutes, or any documentation of meetings or communications between the WWTP operators and City Council and/or other divisions of City government regarding the following topics:
  - a. Requests for capital expenditures for wastewater treatment and/or the City's collection system for the WWTP; and
  - b. All reports made at City Council meetings regarding the operation or condition of WWTP and/or the collection system for the WWTP.
6. For the time period between April 2012 and the present, identify the number of sewer-related complaints that the City has received.

7. For all complaints identified in response to Information Request number 6, describe the nature of the complaint (i.e. Sanitary Sewer Overflows, building backups, basement backups, odors, manhole discharges, pump station discharges, and bypasses).
8. Provide a description of the method and/or copy of any procedures the City has in place for tracking and responding to sewer-related complaints, including, but not limited to, the identity of the individual responsible.
9. Provide a description of the method and/or copy of any procedures the City has in place for making a determination regarding whether or not the cause of a customer complaint is due to the publicly-owned portion of the sewer system.
10. Provide a description and/or copy of any procedures the City has in place to stop or contain flow from, or otherwise mitigate, sanitary sewer overflows (SSOs).
11. Provide a description and/or copy of any procedures the City has in place to maintain records of, or otherwise document, SSOs and the actions taken to stop or reduce the flow from, or otherwise mitigate, SSOs.
12. For the time period between April 2012 and the present, identify the number of bypasses of the City's WWTP that have occurred and, for each event, provide date, estimated volume discharged, duration of discharge, and reason for/cause of the discharge.
13. For the time period between April 2012 and the present, identify the locations within the service area of the City's WWTP that have had more than one SSO and, for each location, provide location details including address and structure type (i.e. manhole, overflow pipe, etc.).
14. Provide a description and/or a copy of any plans or proposals for the City to address the locations identified in response to Information Request number 13.
15. For the time period between April 2012 and the present, provide all reports of SSOs and bypasses submitted to NDEQ and identify any SSOs and bypasses that were not reported to NDEQ; for those not reported, provide an explanation why they were not reported.

**V. Industrial Users**

16. For the time period between October 2016 and the present, provide any monitoring data collected by either the City or Henningsen Foods, Inc. for wastewater discharged from Henningsen Foods, Inc.'s facility located at 325 Third Street in David City, Nebraska, (hereinafter "facility") to the City's collection system for the WWTP.
17. State whether the City developed local limits in response to Pass Through or Interference (as defined by 40 CFR 403.3(p) and (i), respectively) experienced at the WWTP as the result of contributions from an industrial user. If so, provide the developed local limits and their calculations.
18. For the time period between April 2012 and the present, provide all communications and correspondence, including but not limited to letters, emails, meeting notes, minutes, or any

documentation of meetings or communications, between the City and Henningsen Foods, Inc., regarding the following topics:

- a. Compliance with the terms of any wastewater agreement, permit, order or contract;
- b. The performance of the City's WWTP;
- c. Treatment of the facility's wastewater; and
- d. Payments for improvements, equipment replacement or repair, and/or routine or unforeseen operation and maintenance expenses at the City's WWTP.

**STATEMENT OF CERTIFICATION**

I certify that the Monthly Operating Reports submitted in response to the Information Request are true, accurate, and complete.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**40 C.F.R. § 122.22(a). Signatories to permit applications and reports.**

(1) **For a corporation.** By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

*Note: EPA does not require specific assignments or delegations of authority to responsible corporate officer identified in Sec. 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Sec. 122.22(a)(1)(ii) rather than to specific individuals.*

(2) **For a partnership or sole proprietorship.** By a general partner or the proprietor, respectively; or

(3) **For a municipality, State, Federal, or other public agency.** By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

